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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Keith A. Hoffman

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SUITE 2850
200 WEST ADAMS STREET
CHICAGO, IL 60606

EXAMINER

WILKENS, JANET MARIE

ART UNIT

PAPER NUMBER

3637

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,671	Applicant(s) HOFFMAN, KEITH A.	
	Examiner Janet M. Wilkens	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11,15 and 65-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-11,15 and 65-74 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 20, 2008 has been entered.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 4 and 8-11 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 37-41 of U.S. Patent No.

7,293,845. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the patent and application teach an interlock comprising: an elongated flexible member, a rotatable lever/actuating member adapted to switch the amount of slack in said elongated, flexible member between a low slack condition and a high slack condition by rotating between a first and second position, respectively; and a rotatable engagement member/cam member positioned to cause said rotatable lever to rotate toward the first position when a drawer is initially moved from a closed position in a first direction. A biasing member/spring is positioned adjacent said lever and is adapted to exert a biasing force that tends to prevent said lever from rotating from said second position to said first position until said drawer is moved in said first direction to an open position. Since the claims of the application are anticipated by the claims of the patent, they are not patentably distinct therefrom; regardless of any additional subject matter present in patent claims. Thus, the invention of the patent claims is in effect a species of the generic invention of the claims in the application. It has been held that the generic invention is anticipated by the species, see *In re Goodman* 29 USPQ2d 2010 (Fed Cir. 1993) .

For the dependent claims 4, 8 and 9, although the patent fails to teach that the flexible member is specifically a cable, to use this type of flexible member in an interlock system would have been an obvious consideration. Furthermore, the patent's interlock (in the preamble of claim 37) is stated to be for use with a drawer system and therefore, usable/mountable to a drawer side member if desired.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 65-74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 5, it is unclear whether or not the at least one other drawer interlock includes its own flexible member (the interlock of claim 1 includes a flexible member, lever and engagement member) or if the flexible member of the first interlock claimed serves as the flexible member of the second interlock claimed. For claims 65 and 73, it is unclear what relationship the drawer slide member has with respect to the cam member and the actuating member other than it includes a slot in communication with a projection of the cam member. The sequence of how this member's movement enacts the movement of the others needs to be described in some manner. For claim 65, the cam member's movement with respect to the actuating member is also not clearly defined. Furthermore, for claims 65 and 73, it is unclear how a slot, i.e. a space, can be attached to the drawer slide member.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6, 10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell (5,427,445). Mitchell teaches an interlock (Figs. 2 and 3) comprising: an elongated flexible member/cable (28), a rotatable lever/actuating member (small member of 20 with 31,32,34; see Fig. 5) adapted to switch the amount of slack in said elongated, flexible member between a low slack condition and a high slack condition by rotating between a first and second position, respectively; and a rotatable engagement member/cam member (large member of 20 with A; see Fig. 5) positioned to cause said rotatable lever to rotate toward the first position when a drawer is initially moved from a closed position in a first direction (by rotating the larger member of 20, the small member is thus rotated) . The flexible member is in communication with at least one other drawer interlock associated with another drawer (see Figs. 2 and 3), said at least one other drawer interlock adapted to change said elongated, flexible member from the high slack to the low slack condition when the at least one other drawer is moved to an open position and the flexible member is in communication with a lock (40,40A). The lever would inherently be adapted to translate a first force (via linear movement of the drawer) exerted on the drawer in the first direction into a second force (via rotational movement of the lever) on the flexible member which is less than the first force (the linear movement of the drawer would inherently be greater than the rotational movement of the lever.). Furthermore, a cable guide (24) is provided.

Allowable Subject Matter

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 65 and 73 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. (The allowable subject matter being the interlock including an elongated flexible member moveable between a low slack and high slack position via an actuating member engageable therewith; the actuating member being moved via a drive surface of a cam member which itself is moved via a projection thereon being engaged with a slot in a moving drawer slide member.)

Claims 66-72 and 74 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed March 20, 2008, with respect to the rejections of the claims under Mitchell (5,176,436) and Budde (German reference 44 16 768) have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new grounds of rejection is made in view of Mitchell (5,427,445).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janet M. Wilkens/
Primary Examiner, Art Unit 3637

Wilkens
June 18, 2008